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## SCHEDULES

### SCHEDULE 4

#### CALCULATION OF NORMAL WORKING HOURS AND A WEEK'S PAY

##### PART II

##### A WEEK'S PAY

###### *Employments for which there are normal working hours*

- 3 (1) This paragraph and paragraph 4 below shall apply if there are normal working hours for an employee when employed under the contract of employment in force on the calculation date.
- (2) Subject to paragraph 4 below, if an employee's remuneration for employment in normal working hours, whether by the hour or week or other period, does not vary with the amount of work done in the period, the amount of a week's pay shall be the amount which is payable by the employer under the contract of employment in force on the calculation date if the employee works throughout his normal working hours in a week.
- (3) Subject to paragraph 4 below, if sub-paragraph (2) above does not apply, the amount of a week's pay shall be the amount of remuneration for the number of normal working hours in a week calculated at the average hourly rate of remuneration payable by the employer to the employee in respect of the period of 12 weeks—
- (a) where the calculation date is the last day of a week, ending with that week;
  - (b) in any other case, ending with the last complete week before the calculation date.
- (4) References in this paragraph to remuneration varying with the amount of work done include references to remuneration which may include any commission or similar payment which varies in amount.
- 4 (1) This paragraph shall apply if there are normal working hours for an employee when employed under the contract of employment in force on the calculation date, and he is required under that contract to work during those hours on days of the week or at times of the day which differ from week to week or over a longer period so that the remuneration payable for, or apportionable to, any week varies according to the incidence of the said days or times.
- (2) The amount of a week's pay shall be the amount of remuneration for the average weekly number of normal working hours (calculated in accordance with sub-paragraph (3) below) at the average hourly rate of remuneration (calculated in accordance with sub-paragraph (4) below).
- (3) The average number of weekly hours shall be calculated by dividing by 12 the total number of the employee's normal working hours during the period of 12 weeks—

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- (a) where the calculation date is the last day of a week, ending with that week;
  - (b) in any other case, ending with the last complete week before the calculation date.
- (4) The average hourly rate of remuneration shall be the average hourly rate of remuneration payable by the employer to the employee in respect of the period of 12 weeks—
  - (a) where the calculation date is the last day of a week, ending with that week ;
  - (b) in any other case, ending with the last complete week before the calculation date.
- 5 (1) For the purpose of paragraphs 3 and 4 above, in arriving at the average hourly rate of remuneration only the hours when the employee was working, and only the remuneration payable for, or, apportionable to, those hours of work, shall be brought in; and if for any of the 12 weeks mentioned in either of those paragraphs no such remuneration was payable by the employer to the employee, account shall be taken of remuneration in earlier weeks so as to bring the number of weeks of which account is taken up to 12.
- (2) Where, in arriving at the said hourly rate of remuneration, account has to be taken of remuneration payable for, or apportionable to, work done in hours other than normal working hours, and the amount of that remuneration was greater than it would have been if the work had been done in normal working hours, account shall be taken of that remuneration as if—
  - (a) the work had been done in normal working hours ; and
  - (b) the amount of that remuneration had been reduced accordingly.
- (3) For the purpose of the application of sub-paragraph (2) above to a case falling within paragraph 2 above, sub-paragraph (2) shall be construed as if for the words " had been done in normal working hours ", in each place where those words occur, there were substituted the words " had been done in normal working hours falling within the number of hours without overtime ".